

*sell ad*(b) (4)  
6/11/01UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,	:	CIVIL NO: 1:CV-00-0315
Plaintiff,	:	(Judge Rambo)
v.	:	(Magistrate Judge Smyser)
KENNETH K. KYLER,	:	
JOHN A. PALAKOVICH,	:	
WILLIAM J. RHOADES,	:	
MARTIN DRAGNOVICH,	:	
OFFICER RUBENDALL, and	:	
OFFICER RAGER,	:	
Defendants	:	

FILED  
HARRISBURG, PA

JUN 08 2001

MARY E. D'ANDREA, CLERK

PER *gts* DEPUTY CLERKORDER

The plaintiff, a state prisoner proceeding *pro se*, commenced this 42 U.S.C. § 1983 action in the Court of Common Pleas of Cumberland County, Pennsylvania. In a complaint and amended complaint, the plaintiff claims that defendants Kyler, Palakovich, Rhoades and Dragnovich violated his constitutional rights and Pennsylvania Department of Corrections regulations by confiscating his personal law books and religious materials, by denying him showers and outside exercise and by subjecting him to excessive heat and poor ventilation.

On February 22, 2000, defendants Kyler, Palakovich, Rhoades and Dragnovich removed the case to this court. On March 7, 2000, defendants Kyler, Palakovich, Rhoades and Dragnovich filed an answer to the plaintiff's complaint and amended complaint.

On July 17, 2000, the plaintiff filed a supplemental complaint adding defendants Rubendall and Rager. The plaintiff claims that defendants Rubendall and Rager failed to return to him his personal, religious and legal materials despite orders by Drs. Laskey and Clark and defendants Dragnovich and Palakovich that the plaintiff's property be returned to him.

On August 28, 2000, the defendants filed an answer to the plaintiff's supplemental complaint.

On October 17, 2000, the defendants filed a motion for summary judgment and a statement of undisputed facts. After receiving a number of extensions of time, the defendants filed a brief in support of their motion for summary judgment on

December 5, 2000. The plaintiff has received extensions of time until June 18, 2001 to file a response to the defendants' statement of material facts, a brief and any summary judgment evidence he has in opposition to the motion for summary judgment.

On April 25, 2001, the plaintiff filed a motion for the court to appoint an officer to take the written depositions of Officer Craig and Chaplain Vogel and a brief in support of that motion. On May 10, 2001, the defendants filed a brief in opposition to that motion. No reply brief has been filed.

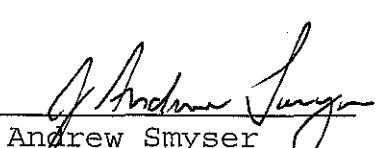
We construe the plaintiff's motion as a request not only for the court to appoint an officer to take the written depositions of Officer Craig and Chaplain Vogel but also for the government to pay the costs associated with such an appointment and such depositions upon written questions.

"There is no provision in the statute [28 U.S.C. § 1915] for the payment by the government of the costs of

deposition transcripts, or any other litigation expenses, and no other statute authorizes courts to commit federal monies for payment of the necessary expenses in a civil suit brought by an indigent litigant." *Tabron v. Grace*, 6 F.3d 147, 159 (3d Cir. 1993).

Because there is no authority for the court to pay the costs of the depositions and there is no basis in this case to require the defendants to pay those costs, the plaintiff's motion will be denied.

AND NOW, this 8<sup>th</sup> day of June, 2001, IT IS HEREBY ORDERED that the plaintiff's motion (doc. 109) for the court to appoint an officer to take the written depositions of Officer Craig and Chaplain Vogel is DENIED.

  
J. Andrew Smyser  
Magistrate Judge

Dated: June 8, 2001.

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

June 8, 2001

Re: 1:00-cv-00315 Jae v. Kyler

True and correct copies of the attached were mailed by the clerk to the following:

John Richard Jae  
SCI-GREENE  
#BQ-3219  
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Michael L. Harvey, Esq.  
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Susan J. Forney, Esq.  
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CC:			
Judge	( <input checked="" type="checkbox"/> )	( <input type="checkbox"/> )	Pro Se Law Clerk
Magistrate Judge	( <input checked="" type="checkbox"/> )	( <input type="checkbox"/> )	INS
U.S. Marshal	( <input type="checkbox"/> )	( <input type="checkbox"/> )	Jury Clerk
Probation	( <input type="checkbox"/> )		
U.S. Attorney	( <input type="checkbox"/> )		
Atty. for Deft.	( <input type="checkbox"/> )		
Defendant	( <input type="checkbox"/> )		
Warden	( <input type="checkbox"/> )		
Bureau of Prisons	( <input type="checkbox"/> )		
Ct Reporter	( <input type="checkbox"/> )		
Ctroom Deputy	( <input type="checkbox"/> )		
Orig-Security	( <input type="checkbox"/> )		
Federal Public Defender	( <input type="checkbox"/> )		
Summons Issued	( <input type="checkbox"/> )	with N/C attached to complt. and served by: U.S. Marshal ( <input type="checkbox"/> ) Pltf's Attorney ( <input type="checkbox"/> )	
Standard Order 93-5	( <input type="checkbox"/> )		
Order to Show Cause	( <input type="checkbox"/> )	with Petition attached & mailed certified mail to: US Atty Gen ( <input type="checkbox"/> ) PA Atty Gen ( <input type="checkbox"/> )	

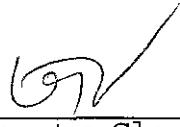
Bankruptcy Court   
Other

DA of County  Respondents

MARY E. D'ANDREA, Clerk

DATE: 6-8-01

BY:

  
Deputy Clerk